

JS 44 (Rev. 07/16)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS <u>Morgan Malachi, Maliori Malachi, Jeremy Gunn</u>	DEFENDANTS <u>Colash, LLC.; Anne Mary Rivers; R. Jose Soderstrom</u>
(b) County of Residence of First Listed Plaintiff <u>Philadelphia</u> <small>(EXCEPT IN U.S. PLAINTIFF CASES)</small>	County of Residence of First Listed Defendant <u>Philadelphia</u> <small>(IN U.S. PLAINTIFF CASES ONLY)</small>
(c) Attorneys (Firm Name, Address, and Telephone Number) <u>Law Office of Steven Auerbach</u> <u>Steven Auerbach, 822 Montgomery Ave, Ste 210</u> <u>Narberth, PA 19072. (215) 954-4410</u>	Attorneys (If Known)

II. BASIS OF JURISDICTION <small>(Place an "X" in One Box Only)</small>	III. CITIZENSHIP OF PRINCIPAL PARTIES <small>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</small>																								
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question <small>(U.S. Government Not a Party)</small> <input type="checkbox"/> 4 Diversity <small>(Indicate Citizenship of Parties in Item III)</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input checked="" type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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V. ORIGIN <small>(Place an "X" in One Box Only)</small>							
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 7 Multidistrict Litigation - Direct File	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>Federal Fair Labor Standards Act, 29 U.S.C. 5201 et seq ("FLSA")</u> Brief description of cause: <u>Remedy Claim of unpaid minimum wages</u>
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.	DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY	(See instructions): JUDGE _____ DOCKET NUMBER _____ DATE <u>5/15/17</u> SIGNATURE OF ATTORNEY OF RECORD _____
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FOR OFFICE USE ONLY

RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____	MAG. JUDGE _____
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Place of Accident, Incident or Transaction: 7161-65 Germantown Ave. Philadelphia, PA 19114
(Use Reverse Side For Additional Space)

Yes ☐ No ☒

Yes ☐ No ☒

Case Number: _____ Judge _____ Date Terminated: _____

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes ☐ No ☒

(Please specify) FLSA

(Please specify)

I, Stephane, counsel of record do hereby certify:

☒ Relief other than monetary damages is sought.

DATE: 5/17/17 Steven Averch 317309
Attorney-at-Law Attorney ID#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

DATE: 5/14/17 Steren Avetisyan 317304
Attorney-at-Law Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Morgan Malachi, et al.

v.

Colush, LLC, et al

:
:
:
:
:

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (✓)

5/15/17
Date

(215) 964-4410

Telephone

Steven Auerbach
Attorney-at-law

(610) 667-7305

FAX Number

Plaintiff
Attorney for

Auerbach.Steven@gmail.com

E-Mail Address

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MORGAN MALACHI, and
MALLORI MALACHI, and
JEREMY GUNN,

Plaintiffs;

CIVIL DIVISION

Docket No.:

vs.

COLASH, LLC and,
ANNE MARY RIVERS, and
R. JAKE SUDDERTH;

Defendants.

COMPLAINT IN CIVIL ACTION

Filed on behalf of Plaintiffs:
MORGAN MALACHI
MALLORI MALACHI
JEREMY GUNN

Counsel of Record for these Parties:
Steven Auerbach, Esquire
Law Office of Steven T. Auerbach
822 Montgomery Ave.
Suite 210
Narberth, PA. 19072
Ph: (215) 964-4410
Fax: (610) 667-7305
Steven@TheAuerbachFirm.com
Pa. I.D. #317309

JURY TRIAL DEMANDED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MORGAN MALACHI, and)	CIVIL DIVISION
MALLORI MALACHI, and)	
JEREMY GUNN,)	
Plaintiffs;)	Docket No.:
)	
vs.)	
)	
COLASH, LLC and,)	
ANNE MARY RIVERS, and)	
R. JAKE SUDDERTH;)	
Defendants.)	

I. COMPLAINT IN CIVIL ACTION

Morgan Malachi, Mallori Malachi, and Jeremy Gunn (collectively “Plaintiffs”), by their attorney, Steven Auerbach, complaining of Defendants Colash, LLC, Anne Mary Rivers, and R. Jake Sudderth (collectively “Employers” or “Defendants”), allege:

II. INTRODUCTION

1. This action is brought to remedy claims of unpaid minimum wages under the Federal Fair Labor Standards Act, 29 U.S.C § 201 *et seq.* (“FLSA”) and applicable state law(s).
2. Plaintiffs seek injunctive and declaratory relief, compensatory and liquidated damages, attorneys’ fees and costs, and all other appropriate relief pursuant to governing law.

III. JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 1343(a) (4) because it arises under the laws of the United States and seeks redress for violation of federal laws. There lies supplemental jurisdiction over Plaintiffs’ state-law claims because they arise out of the same common nucleus of operative facts as Plaintiffs’ federal claims asserted herein.

4. This Court may properly maintain personal jurisdiction over Defendants because their contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendants to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in *International Shoe Co. v. Washington*, 326 U.S. 310 (1945) and its progeny.

5. Pursuant to 28 U.S.C. §§ 1391(b)(1) and (b)(2), venue is properly laid in this district because all of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district, and Defendants are deemed to reside where they are subject to personal jurisdiction, rendering Defendants residents of the Eastern District of Pennsylvania.

IV. PARTIES

6. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

7. Plaintiffs are adult individuals who reside in Philadelphia, Pennsylvania.

8. At all times relevant to this action, Plaintiffs were “Employee[s]” of the Defendants within the meaning of 29 U.S.C. §201(e)(1) and related state law(s). Plaintiffs’ party-consent statements are included with their respective verifications.

9. Defendant Colash, LLC, is an entity organized under the laws of Pennsylvania with a principal place of business in Philadelphia, Pennsylvania where it operates or operated a restaurant known as “Alma Mater.”

10. Colash, LLC is owned and operated by Anne Marry Rivers and R. Jake Sudderth.

11. Upon information and belief, Defendants were an “Employer” of the Plaintiffs within the meaning of 29 U.S.C. §203(d) and related state law(s), an “Enterprise” within the meaning of 29 U.S.C. §203(r), and “engaged in commerce” within the meaning of 29 U.S.C. §203(s)(1).

12. At all times relevant herein, Defendants acted by and through their agents, servants and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendants.

VI. FACTUAL ALLEGATIONS

13. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

14. Defendants employed Plaintiffs to work as kitchen staff beginning November 2015, however they have failed to pay Plaintiffs the required minimum wage.

15. This practice violates the provisions of 29 U.S.C. §6(a) and related state law(s). As a result of this unlawful practice, Plaintiffs have suffered a loss of wages.

16. Defendants showed reckless disregard for the fact that their failure to pay minimum wage compensation was in violation of the law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Court enter an Order providing:

- a. Declaratory judgment that the acts, policies, and practices complained herein are in willful violation of the FLSA and related state law(s); and
- b. Enjoining Defendants from continuing its acts, policies, and practices which violate the FLSA and related state law(s); and
- c. Issuing judgment against Defendants for an amount equal to Plaintiffs' back wages; and
- d. Issuing judgment against Defendants in an amount equal to the wage damages as liquidated damages; and
- e. Awarding pre-judgment interest; and
- f. All costs incurred and reasonable attorney's fees for prosecuting this claim; and
- g. Granting such other relief as the Court deems necessary and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to FRCP 38(b), Plaintiff demands a trial by jury on all questions of fact raised by the complaint.

Dated:

5/17/17

Respectfully Submitted,

By:

A handwritten signature in blue ink, appearing to read 'Steven Auerbach', is written over a horizontal line.

Steven Auerbach
822 Montgomery Ave.
Suite 210
Narberth, PA. 19072
Ph: (215) 964-4410
Fax: (610) 667-7305


VERIFICATION and CONSENT

I, Jeremy Malachi, hereby state that I am the plaintiff in this action, and I verify that the statements made in the foregoing pleading are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 28 U.S.C. §1746 relating to unsworn falsification to authorities. I consent to being a party plaintiff to this action.

Dated: _____

5/9/17

JEREMY GUNN

A handwritten signature in black ink, appearing to read 'Jeremy Gunn', is written over a horizontal line. The signature is stylized with a large, sweeping initial 'J' and a long horizontal stroke extending to the right.

VERIFICATION and CONSENT

I, Mallori Malachi, hereby state that I am the plaintiff in this action, and I verify that the statements made in the foregoing pleading are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 28 U.S.C. §1746 relating to unsworn falsification to authorities. I consent to being a party plaintiff to this action.

Dated: _____

5/9/17


MALLORI MALACHI

VERIFICATION and CONSENT

I, Morgan Malachi, hereby state that I am the plaintiff in this action. I verify that the statements made in the foregoing pleading are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 28 U.S.C. §1746 relating to unsworn falsification to authorities. I consent to being a party plaintiff to this action.

Dated: 5/9/17


MORGAN MALACHI